

Minutes of the Planning Commission meeting held on Thursday, December 3, 2009, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jim Harland, Vice-Chair
Ray Black
Tim Taylor
Kurtis Aoki
Karen Daniels
Tim Tingey, Community & Economic Development Director
Ray Christensen, City Planner
Chad Wilkinson, Community Development Planner
GL Critchfield, Deputy City Attorney
Citizens

Excused: Jeff Evans, Chair
Sheri Van Bibber

The Staff Review meeting was held from 6:00 to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording of this is available at the Murray City Community and Economic Development Department.

Mr. Harland opened the meeting and welcomed those present.

APPROVAL OF MINUTES

Tim Taylor made a motion to approve the minutes from November 19, 2009. Seconded by Karen Daniels.

A voice vote was made. The minutes were approved unanimously, 5-0.

CONFLICT OF INTEREST

There were no conflicts of interest noted regarding this agenda.

LARRY H. MILLER – 5500 South State Street, Project #09-91

Trent Jones was the applicant present to represent this request. Ray Christensen reviewed the location and a request for a Conditional Use Permit for auto sales. He stated that this property is located within the C-D-C zone on the west side of State Street and south of Murray High School. Mr. Christensen explained that the applicant is proposing to renovate the existing building interior and exterior for the Chevrolet Dealership and to construct 6,151 square feet of new additions, including an auto service center on the west side of the existing building that would contain 35 repair bays, new parts storage to the north side of the building and site plan amendments for parking lots. He stated that there will be 113 customer and employee parking stalls on the site and 416 auto display stalls. Mr. Christensen stated that the plan shows 9,640 square feet of sales area, 7,647 square feet of office space, and a 25,224 square feet parts warehouse. He said that there will be renovation on the east facade of the building for the Chevrolet corporate image elements of the proposal. Mr. Christensen stated that where the property adjoins a residential area to the north a 6 foot high masonry wall with a 10 foot depth of buffer landscaping will be required unless a variance is granted by the

Board of Adjustment. He said that the zoning ordinance requires 10 percent of the site to be landscaped. Mr. Christensen said that the applicant has proposed vacating 5530 South, which will be considered at a later date by the City Council. He stated that the applicant has provided two plans, one of them showing the current 5530 South Street alignment and the other with the road vacation. Staff is recommending approval.

Mr. Harland asked about the 5530 South Street vacation addressed in Condition #8. Mr. Christensen replied that the purpose of this condition is to clarify that the Planning Commission is not the body making the decision on street vacation.

Trent Jones, 730 Pacific Avenue, is with FFKR Architects. He stated that he is present tonight with Brent Bigelow from the Larry H. Miller organization. Mr. Harland asked about the anticipated time frame for project completion. Mr. Jones responded that he is hoping to move things along rapidly so that construction can begin soon. He stated that he anticipates completion in early spring, hopefully in March.

Mr. Harland opened the meeting for public comments.

Irene Guterrez, 14 West Rose Circle, stated that she thought the issue of closing 5530 South would be addressed at this meeting. Mr. Tingey responded that vacation of the road is not being considered at this meeting and that the road closure will be determined by the City Council. He said that he attended a neighborhood meeting pertaining to this development and that the City has temporarily closed the road in order to evaluate traffic counts. He stated that there will be another neighborhood meeting with the Miller Group at a later date, followed by a public hearing specifically for the road closure issue if that is pursued. Mr. Tingey stated that the meeting tonight is strictly to consider the Conditional Use Permit for business expansion. Ms. Guterrez stated that she would like to see the list of objections. The Planning Commission advised her that the list is related to conditions for the permit. Ms. Guterrez asked for a written copy of the conditions.

Ms. Guterrez stated that she objects to the road closure and would like to know how the Conditional Use Permit will affect her as a nearby resident. She said that the road has been closed since Monday and no work has been done at all. She stated that having the road closed is an inconvenience. The Planning Commission members explained that the road closure is due to a traffic study and not for any work at the site. Mr. Tingey stated that this road closure is temporary until the study is completed. He stated that if the Miller Group wishes to vacate the road, they will submit an application to the City. There will be notices sent in compliance with requirements and there will be a hearing before the City Council.

Dick Sundburg, 9 E. Washington Avenue, stated that he would like to know how far west the building expansion will extend. Mr. Christensen replied that the addition on the west side will be 40 to 50 feet from the property boundary. Mr. Sundburg asked if the shrubbery along the wall will be maintained. Mr. Christensen replied that it will. Mr. Sundburg asked how high the second level will be as he does not want it to exceed the height of the existing building. Mr. Christensen replied that there is a 35 foot limitation on height, and he thinks that the current building is 30 feet high. Trent Jones stated that all of the proposed additions are equal to or lower than the existing height of the building.

Betty Ledgard, 11 Rose Circle, asked how the traffic study is being conducted and how the vehicles are being counted. Mr. Harland stated that although this is not part of the agenda tonight, he will have staff address the question. Tim Tingey stated that he does not have the technical details, but there is equipment in place that is counting cars at different intervals.

Dick Sundburg asked about the hours of operation for the new service bays that are being built. He said that he is concerned about the noise levels. Trent Jones stated that the hours of service operation will run until 8 o'clock in the evening.

Loyd Dille, 1 Rose Circle, stated that he is glad to see Larry H. Miller buy this property and develop the site.

Mr. Harland closed the public comment portion of this agenda item.

Karen Daniels made a motion to approve the Conditional Use Permit for general building remodeling, auto service bay addition at the west side of the property, and site plan amendments for automobile sales and repair at the property addressed 5500 South State Street, for Miller Family Real Estate, LLC, subject to conditions:

1. The project shall meet all applicable building code standards. A geo-technical report for a soils engineer is required to be submitted.
2. The project shall meet all current fire codes as required by the Fire Department.
3. A formal landscaping plan meeting the requirements of Chapter 17.68 of the Murray Municipal Code shall be submitted and approved by the Murray City Forester and installed as approved prior to occupancy. The site plan will need to be revised to show 10 ft. depth of landscaping at the north property adjoining the residential zone and a 5 ft. depth of landscaping adjoining the boundary lines and parking stalls at the south property line. The applicant will need to provide 10% of the site in landscaping to meet code.
4. The trash containers shall be screened as required by Section 17.76.170.
5. A solid masonry wall and 10 ft. depth of landscaping is required at the north boundary of the property adjoining the R-1-8 residential zone.
6. Meet all Water, Sewer and Power Department requirements for the project.
7. Provide adequate paved and striped parking to meet the zoning ordinance regulations including 5 disabled parking stalls to meet ADA regulations with signs posted and revise the plans to show the disabled stalls on the site plan.
8. The site plan approval for the 5530 South Street vacation area is subject to approval by the City Council and Mayor.
9. The City Engineer noted a Land Disturbance Permit will be required before construction begins.

Seconded by Kurtis Aoki.

Call vote recorded by Ray Christensen.

A Tim Taylor
A Jim Harland
A Karen Daniels
A Kurtis Aoki
A Ray Black

Motion passed, 5-0.

MIXED USE DEVELOPMENT DISTRICT ORDINANCE TEXT AMENDMENT AND
ZONE MAP AMENDMENT FOR MIXED USE ZONE DESIGNATION

Tim Tingey provided a brief history on the issues related to this amendment. He stated that there was a public hearing on October 15th, at which time the Commission directed staff to consider some additional issues. He said that there were two study sessions that involved the Commission and members of the public. Mr. Tingey explained the process for this issue to move forward. He stated that the Commission's role is to send a recommendation to the City Council. The City Council will then make a decision at a later date. Mr. Tingey clarified that there are two issues requiring a recommendation, one is the ordinance text amendment and the other is the zone map amendment.

Chad Wilkinson addressed the six items identified previously by the Planning Commission for additional study. He stated that the first item relates to building heights and buffering. He said that the current ordinance allows for 35 feet of building height within 100 feet of a residential zone with additional height allowed based on a ratio of 1 foot additional height for each 4 feet additional building setback. Mr. Wilkinson stated that after further discussion, the commission had determined that there was a need for additional building height in the area adjacent to residential, but also felt that there was still a need to buffer the adjacent residential zones from impacts created by tall buildings. He said that staff has analyzed this issue and determined that the impacted areas are minimal. He said that staff is proposing a maximum of 50 feet of building height within 100 feet of a residential zone with additional height allowed based on a ratio of 1:1 height to setback thereafter.

Mr. Wilkinson stated that there were two boundary areas that had been discussed previously, one on 4800 South and the other on Vine Street. He said that staff has again reviewed the boundaries and have not changed their recommendation. He said that in relation to 4800 South, the boundary is in a logical position as it is within the ½ mile of TRAX as designated in the general plan. He stated that 4800 South creates a natural boundary due to the existing street. Mr. Wilkinson stated that in relation to Vine Street, the boundary has been revised to include the properties immediately to the south. He stated that this change was made to address the Commission's concern about the consistency of the streetscape along Vine Street.

Mr. Wilkinson stated that members of the public had voiced concerns about parking. He stated that it is important to have a parking standard that balances the need for adequate parking with the fact that this needs to be a denser area that is pedestrian and transit oriented. He said that staff is recommending adopting the existing standards in the Transit Oriented Development parking code, along with the 10 percent reduction for properties that are within ¼ mile of existing transit. Mr. Wilkinson stated that staff has also included language that would require parking structures where more than 110 percent of the minimum parking is provided in a development. These changes will address concerns related to the land area consumed by surface parking lots.

Tim Taylor clarified for the public that TOD means Transit Oriented Development. Mr. Wilkinson stated that the current TOD zone is north of 4500 South.

Chad Wilkinson stated that the transition of legal nonconforming businesses was an issue of particular concern voiced by property owners in the previous public hearings. He said that there are currently provisions in the code for continuance of nonconforming uses, stating that they can remain and even expand by going through the Board of Adjustment process. He stated that staff is not proposing to change this in the code. Mr. Wilkinson stated that it is important to separate uses from development standards. He said that nonconforming uses are those that are not permitted by a zoning district that were legally established before a zoning district was adopted. He stated that nonconforming development standards can apply to even permitted uses and include items such as landscaping, building orientation and setbacks. Mr. Wilkinson stated that staff believes there should be an ability for transition over time in those cases. He said that if an application is filed for a conditional use permit or site plan review, the code currently requires that standards be brought up to code or variances obtained. He stated that a transition period is appropriate in order to allow some nonconforming development standards to remain until a significant reinvestment, exceeding 50 percent of the assessed value of the buildings on site, is made by a property owner. Mr. Wilkinson stated that this recommendation is consistent with flood plain regulations, where it is the reinvestment by the property owner that requires bringing the site into conformance with the code.

Mr. Wilkinson stated that there were two other issues that related to residential nodes and residential commercial mix, and minimum density requirements. He said that after additional discussion during the Planning Commission Study Sessions, staff was not directed to make any changes to the text related to these issues. He stated that staff is recommending approval of the mixed use zone change and the changes to the mixed use ordinance.

Mr. Harland thanked the staff for doing additional research and analysis in response to the noted concerns. The Commission members did not have any additional questions for staff. Jim Harland opened the public hearing portion of this agenda item.

Dick Sundberg stated that he is a property owner on 4800 South and asked if there will be an impact on traffic on that street.

Jerry Budd, 526 Lochlevan Lane, asked if this process is strictly to change the ordinance or if there have been applications for permits to build in this area. Mr. Harland replied

that he doesn't know about permits, but confirmed that this is a new zoning designation. Mr. Budd asked what facilitated this change. Mr. Harland stated that it is part of the general plan recommendations, and that staff can address the issue in more detail at the end of the public input period. Mr. Budd asked about the building that most recently housed the Utah Pet Center and if anything is planned with that property. He stated that it is an eyesore, and asked why this building exceeds the 50 foot height limit.

Orden Yost, 4616 S. Atwood Boulevard, congratulated staff and the Planning Commission for going through this process. He stated that he does not understand the parking that has been recommended because usually if the requirement exceeds 4 or 5 spaces per thousand, the development is required to accommodate a percentage of that amount within a parking structure. He said that a single 100,000 square foot building will fill the rest of the property with parking. Mr. Yost stated that the staff recommendation does not solve this problem. He stated that the proposed boundary along 4800 South is problematic as each side of this major road will look completely different. He said that requiring commercial use of 75% of the main floor of a development is going to create economic problems and will prolong development of the area. Mr. Yost suggested that staff needs to find another way to solve this problem. He said that he doesn't want this to be a residential project, but there must be some residents to drive the economics and the commercial uses. He stated that the main floor commercial space in a nearby TOD area is not being used. Mr. Yost suggested taking additional time to consider these issues.

Richard Trantor, Superintendent of Murray School District at 147 East 5065 South, stated that he appreciates the great relationship the School District has with Murray City. He said that they've been working together on this project for over a year. He stated that the district owns property on the corner of Vine Street and 300 West, where they hope to build a bus garage. Mr. Trantor stated that the bus garage is currently located on the frontage road and there isn't room at that location to park all of the buses. He explained that it took many years to acquire land that would meet the needs of the school district, and it has cost \$2.8 million to acquire fifteen different properties. He stated that they plan to move all of their facilities to this location. He said that the school district will comply with the requirements pertaining to their property along Vine Street. Mr. Trantor stated that they intent to create some beautiful buildings and landscaping that will meet the needs of the district. He said that the district supports what has been proposed by staff.

Ray Beck, 257 East 200 South, is present to represent Scott Gordon who owns property at 4800 South and approximately 200 West. He stated that he appreciates the opportunity he has had to meet with staff. He said that the area north of 4800 South was originally included in this zone change but has since been excluded. Mr. Beck stated that the Gordon property has boundaries along City and TRAX properties and that there is a steep hill along the south side of Mr. Gordon's property that prevents further access in that direction. He stated that across 4800 South there are many multi-tenant use buildings and that there are a lot of automotive businesses, which aren't a favored use in the new zone. Mr. Beck stated that 40 percent of his client's tenant base is automotive businesses. He said that because the property directly across the street has been excluded it creates an economic disadvantage for his client to obtain tenants. He stated that there is a high demand for automotive use in this area, and that over time

these zone restrictions would limit Mr. Gordon's tenant base. Mr. Beck stated that the economic impact will be immediate in contrast to the extensive period of time it will take to transform the area. He said that it is impossible to tell when the vision for the area will actually happen. He stated that there have been some solutions proposed, such as grandfathering. Mr. Beck stated that he is proposing a boundary change excluding Mr. Gordon's property because of its geographic location and the economic impact of the zone change. He said that other boundary lines have been moved to follow fence lines as reflected in the minutes of previous meetings. Mr. Beck stated that there are some property owners near Vine Street that have the opportunity to opt in or out of the mixed use zone based upon what fits their economic needs. He said that these same principals should also apply to his client. He pointed out a number of other properties that are at an advantage by being excluded from the mixed use zone, yet they are located within the same area and proximity to the TRAX station as Mr. Gordon's property.

Chad Wilkinson responded to the issues raised by the public comments. He stated that as far as traffic concerns, this area was identified as mixed use in the General Plan in 2003. He said that the proposed uses are very compatible with the existing uses. Mr. Wilkinson stated that traffic issues were analyzed when the General Plan was adopted. He said that there was not any particular application that propelled the zone change and that this has been an ongoing process. He stated that the Utah Pet Center (formerly Galleria) property is currently for sale and that the height and setback do fit with the zone. Mr. Wilkinson stated that the zoning regulations were a little bit different when this building was approved. He said that pertaining to Mr. Yost's comments about parking, a reduction was taken according to TOD standards and an additional 10 percent reduction was taken in areas that are within ¼ mile of the TRAX station. Mr. Wilkinson stated that the proposed standard states that a building over four stories in height must have either 75 percent of the parking either within the footprint of the building or within parking structures. He said that as buildings go up it will require them to locate the parking within the footprint which would be in garages or underground. The second issue is that it is 110% of the reduced parking minimum. The hope is to encourage developers to build structures and not consume as much land with parking. The parking, for example, for residential units with more than 25% of the parking in surface lots is 1.5 for two-bedrooms; 1.85 stalls for more than two-bedrooms; the current code is two parking spaces per residential unit. Office uses require 1 stall per 265 sq.ft. and the current code is 1 per 250 sq.ft. There are further reductions if there is structured parking. For residential units two bedrooms or less the rate is 1.125 spaces per unit; 1.4 stalls for three bedrooms or more; office use is 1 stall per 350 sq.ft. He stated that the reasoning for the 4800 South boundary is because the general plan calls for Mixed Use in this area south of 4800 South and is within ½ mile which is the distance designated in the general plan as being appropriate for mixed use zoning and streets make natural boundaries. The reason for not going north of 4800 South is because that area does extend beyond the ½ mile from the Trax station; however it was originally proposed because it was thought there was going to be a bus rapid transit line on 4800 South but that alignment has now been identified to be Vine Street.

Chad Wilkinson explained the existing code limits the amount of residential square footage to 75% of a project. The staff feels that this may restrict some good residential developments, but there needs to be a mix of uses. The goal is to have a mix of uses

and not all residential. The market is currently pushing for multi-family. The proposal is to limit the amount of residential on the ground floor with no limit on the floors above ground floor.

Chad Wilkinson stated regarding economic viability issues, that the city is not a property owner and this proposal is representative of the city and the public in general and is representing a vision for the area which is a vision that was established by the City Council through a public process. The vision was that this area would be pedestrian transit oriented in a much larger area that has since been reduced to a more appropriate area. Whenever a zoning is changed for property, there are nonconforming uses and the code has been modified numerous times in attempts to be sensitive to those issues such as the amount of square footage for some of the light industrial uses which results in less nonconforming uses. The code also allows the ability for an existing business to continue to operate as is without bringing the site into conformance even for permitted uses. The ultimate goal is to get compliance with the current code standard and the existing nonconforming section of the proposed code does address the ability for nonconforming uses to exist and continue and to expand. There are over 100 permitted and conditional use categories that are allowed in this new Mixed Use zone which make the properties economically viable. There are no problems with automobile uses in the city, but this particular zone was designated as a pedestrian transit oriented zone and is not so much the use that is problematic as the nature of the use. Automobile oriented uses, generally speaking, don't have their parking at the rear and typically have a lot of outdoor storage areas, and the idea of the Mixed Use is to have buildings up front with parking located to the rear or side of the building. He stated the staff has listened to many of the property owners and has tried to address their concerns in this proposed ordinance.

Jim Harland asked about Ray Beck's issue regarding the property owners along 300 West having the option of whether or not to be included and what are the circumstances of that. Mr. Wilkinson responded the school district owns most of those properties. The general plan currently calls for this area to be Mixed Use and anyone with a Mixed Use designation may request that zone change at anytime in the past or present. Vine Street is different from 4800 South as a result of the bus rapid transit proposal which will carry persons between the Salt Lake Community College and the Frontrunner and Trax. The transition areas will be proposed at a future date.

Jim Harland asked if there have been requests for opting out of this designation for economic reasons. Mr. Wilkinson responded that there have been a number of property owners requesting to be removed from the Mixed Use zone. The general plan shows the mixed use zoning going north past 4500 South.

Tim Tingey stated if the planning commission recommends a modification to expand the Mixed Use boundary from what is being proposed by staff, a new notice and public hearing would be required. If the Mixed Use boundary goes forward as recommended by staff or if the boundary is recommended to be less than what is being proposed by staff, the process may continue forward.

Jim Harland closed the public comment portion for this agenda item.

Karen Daniels made a motion to send a positive recommendation to the city council for a General Plan amendment from Industrial, Commercial Retail, Office and Residential Multi-Family Medium Density to Mixed Use; and a zone change from M-G-C, C-D-C, and A-1 to M-U; and an ordinance text amendment as proposed for the properties addressed from approximately Murray Boulevard to the UTA Light Rail line and approximately 4800 South to 5200 South. Seconded by Tim Taylor.

Call vote recorded by Ray Christensen.

A Tim Taylor
A Jim Harland
A Karen Daniels
A Kurtis Aoki
A Ray Black

Motion passed, 5-0.

Tim Tingey stated there will be a series of meeting with the city council to discuss this proposal at the Committee of the Whole meeting to educate the city council on the numerous details involved with this proposal. After those meetings, the required noticing and mailing process will occur for that public hearing and that date is unknown at this time.

All the planning commission members indicated they would be present at next regular meeting on December 17, 2009.

Meeting adjourned.

B. Tim Tingey
Director of Community & Economic Development